

Dal Carlos Jacobs 341-334

Plaintiff

14100 Mcmullen Hwy
 Cumberland, MD 21502

Y

Warden Bobby Shearin,
 John W. Taylor, Jr.,
 Wilmore, William Beards,
 Greg Fluey et al
 Defendants

In the United States
 District Court for the
 District of Maryland
 Civil Action No
 AW-13-

FILED
 LODGED
 ENTERED
 RECEIVED

MAR 22 2013

I Jurisdiction
 Venue.

AT BALTIMORE
 CLERK U.S. DISTRICT COURT
 DISTRICT OF MARYLAND
 DEPUTY

BY

amf

1) This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 U.S.C. Section 1331 and 1343(A)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 + 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2) The Maryland Court House is an appropriate venue under 28 U.S.C. Section 1391(b)(2)

BECAUSE it is where the events giving rise to this claim occurred.

(3) Plaintiff files this claim under the "imminent and DANGER Exception"

(4) The effect of the practices complained of below has been to deprive Plaintiff of his Civil Rights and otherwise adversely affect him.

(5) The Plaintiff has exhausted his procedural Administrative Requirements

(6) The unlawful practices complained of below were and continue to be intentional.

Plaintiff

(1) Plaintiff DEL MARLOS JACOBO 341-334 is a citizen and Resident of Maryland, Plaintiff is currently incarcerated at North Branch Correctional Institution (N.B.C.I.) which is located in Cumberland Maryland.

Defendants

(8) Defendant Bobby Shear is the warden of North Branch Correctional Institution. (N.B.C.I.) He is legally responsible for the operation of N.B.C.I. and for the welfare of all the inmates of that prison.

(9) Defendant William Bearden upon information and belief is the medical director or coordinator at N.B.C.I. working individually and as an actual and/or apparent agent servant and/or employee of Horizon. upon information and belief Mr. Bearden duties include but are not limited to: (a) assigning the appropriate healthcare providers to patients. (b) ensuring patients complaints are addressed appropriately, and (c) responding appropriately to patients sick calls.

(10) Defendant Janice Wilmore upon information and belief is the nursing director or coordinator at N.B.C.I. working individually and as an actual and/or apparent agent servant and/or employee of Horizon. upon information and belief Mrs. Wilmore duties include but are not limited to: (a) assigning the appropriate

The nursing staff (b) ensuring providers orders and prescriptions are followed (c) answer complaints when filed by patients.

(11) Defendant A. Joubert MD. is a duly licensed physician authorized to practice medicine and is the Head Doctor operating both Western Region prisons in Maryland and Western Correctional Institution (WCI) and North Branch Correctional Institution (N.B.C.I.) individually and as its actual and/or apparent agent servant and/or employee of Horizon. Dr. Joubert was tasked with providing adequate medical care and treatment to the plaintiff at W.C.I.

(12) Defendant Colin Atkey MD is a duly licensed physician authorized to practice medicine and working at N.B.C.I. individually and as its actual and/or apparent agent servant and/or employee of Horizon. Dr. Atkey was tasked with providing medical care and treatment to the plaintiff at N.B.C.I.

- (13) Defendant Doc Espina MD is a duly licensed Physician authorized to practice medicine and working at W.B. individually and as no actual and/or apparent agent servant and/or employee of Horizon. Dr Espina was tasked with providing medical care and treatment to the plaintiff at W.B.
- (14) Defendant Greg Flury RN is a duly licensed physician assistant authorized to practice medicine and working at W.B. individually and as no actual and/or apparent agent servant and/or employee of Horizon. Mr Flury was tasked with providing medical care and treatment to the plaintiff.
- (15) Defendant Kristina "Doc" Medical Records Tech. is duly licensed medical records clerk working at W.B. individually and as no actual and/or apparent agent servant and/or employee of Horizon, Ms Kristina "Doc" was tasked with providing treatment to the plaintiff.

(16) Defendant Horizon Inc is a private contractor engaged in the business of providing HEALTHCARE SERVICES at NBH at all times mentioned Horizon is engaged in promulgating policies and protocols relating to healthcare services at NBH in addition Horizon is responsible for implementing and adhering to these policies and protocols as well as training physicians, nurses, and other healthcare staff at all times relevant Horizon employed more than twenty five (25) employees and otherwise met the jurisdictional prerequisites of section 1983.

* Each Defendant is sued individually and in his or her official capacity. At all times mentioned in this complaint each defendant acted under color of state law. *

FACT 2.

(17) Back in April 4 2011 I sprang my right ankle while playing Basketball in the yard of NBH. I saw Eric Flury who ordered me to have an X-RAY done (2) days later I was told it was just a very bad sprain to just give it time and I be able to routine doing things I explained I was too very very very severe.

PAIN, THAT STOTER WAS NOT HELPING.

(18) NOW IS "STAY" BECAUSE MY FOOT STILL LOOKED LIKE (2) BASEBALLS I ASKED FOR ANOTHER X-RAY AND REQUESTED FOR STRONGER PAIN MEDS BECAUSE I CONTINUED TO BE IN PAIN, AND FROM THE WAY MY ANKLE WAS STILL SWOLLEN SOMETHING HAD TO BE WRONG, I EXPLAINED ALL THIS TO DOCTER, ON MAY 9, 2011 NEW X-RAYS WERE DONE BUT NOTHING STRONGER FOR PAIN.

(19) NOW AS OF MAY 9, 2011 I WAS PUTTING IN SIX BALLS ASKING FOR THE RESULTS OF THOSE X-RAYS, ALSO ASKING WHY MY ANKLE WAS STILL IN PAIN, AND EXTREMELY SWOLLEN, THAT IT HURT TO WALK, I COULDN'T PLACE ANY PRESSURE ON IT AT ALL, I FILLED OUT WELL OVER 19 SIX BALLS AND HAD 13 FOLLOW-UPS BY DR OTTEY, AND PA FLURY NO ONE COULD FIND THE RECENT X-RAY RESULTS, BUT THEY BOTH BELIEVE NOTHING IS WRONG, THAT I SHOULD REPORT TO WORK AND STOP SHOWING FAVOR TO THE ANKLE, DO THINGS ON IT EXERCISE ON IT.

(20) UPON INFORMATION AND BELIEF THE X-RAY TECH

who did the X-RAY NO ONE WOULD FIND WAS
FIRED FROM HER JOB, AND A LOT OF THE X-RAYS
AND FILES SHE HAD WERE MISPLACED OR LOST
-d, THIS NURSE STILL REMAINS A JANE DOE TO
ME EVEN AFTER REQUESTING SEVERAL TIMES FOR
TO BE REVEALED TO ME.

(21) NOW TOWARDS THE END OF STAY I'M STILL BEING
TOLD NOTHING IS WRONG WITH YOUR ANKLE, I'M
EXPLAINING TO WREG FLURY AND DR OTTEY THAT
STAY IS UNSTABLE AND IT GIVES OUT ON ME, THEY
TOLD ME I NEED TO EXERCISE IT, TO STOP PUTTING
-g IN SICK HALLS, AND FROM THAT THE DEFENDANT
BEGAN TREATING ME AS A NUISANCE OR BOTHER
I CONTINUED TO EXPLAIN OF PAIN BUT NO
'EFFECTIVE' PAIN MEDICINE WAS GIVEN TO ME.

(22) NOW ON SEPT 10, 2011, FOLLOWING THE ADVICE OF
BOTH DR OTTEY AND WREG FLURY I TRY TO JOG
THE YARD LIGHTLY AFTER 30 TO 40 STEPS STAY
RIGHT ANKLE COMPLETELY GIVES OUT ON ME.

(23) ONCE AGAIN I SEE DR OTTEY WHO ORDERS ME
TO HAVE ANOTHER X-RAY AT W.I.I THIS SEPT 12,
2011 AND SEPT 22, 2011 THAT X-RAY SHOWED "NO

and injury to an old acute fracture" the issue is stay that these Defendants continuously told she was a really bad sprain, and that there was no fracture and nothing was seriously wrong.

24) From stay until I arrived home I explained to these Defendants my pain level was an eight to a nine, that the pain in my ankle would keep me up at night, stop me from walking around in the day, and during times when the pain was so severe my entire leg hurt to the point I wish it was cut off. And now it were 5 months later and she continuously enduring it was revealed I had an acute fracture, these defendants failed to accurately read the first X-ray.

25) After this I was ~~given~~ given Ibruprofen and more Ibruprofen for pain, which did nothing to sooth my throbbing ankle and caused me stomach pain. I continued complaining of pain but no stronger or "effective" pain meds were given.

- 26) Next abruptly and without explanation my restraints were confiscated, and I was given a Black Boot to place over my foot and walk. I immediately explained this caused discomfort, and pain when I placed pressure on my ankle,
- 27) Only after I placed an Administrative Remedy procedure (A.R.P.) complaint to the warden Bobby Shepard I was placed on a waiting list to Bow Shivers Hospital to be seen.
- 28) When I saw Dr Ashok Krishnaswamy at Bow Shivers Hospital I was told that because of continued walking on my right ankle all your ligaments are torn and you now need surgery A.S.A.P. Dr Ashok explained no one should have told me it was nothing wrong nor no one should have told you it would be okay to walk on your ankle.
- 29) I had surgery on Feb 2, 2012 I was supposed to be placed in the infirmary until my next follow, but over the weekend while I was housed at jail which is a hold over

stop where prisoners stay waiting to return to the Western Region) I was made to "walk" immediately after surgery, the team -pound to get my dressings changed and pain meds. Now the Doctor's order was for me to "remain" Bed Ridden keeping the extremity elevated, now because of this walking and with every step it is as if my 43 stitches had torn or had popped.

(30) When Back in the Cumberland Region I was placed in the infirmary at Western Institutional Facility (further mention as W.I.I.) also note N.B.I. does not have a institutional infirmary of its own so prisoners of N.B.I. are housed there". While there I informed Dr. Joubert that I was made to walk and I believe my stitches had popped, and that there is extreme irritating pain in my ankle. She explained to me they were not torn, and when I tried to show her the mentioned insisted that they had popped, she became frustrated, and was adamant they were intact. As for my pain she told me it was just lightness

From the stitches and note the freshness of surgery wears off it will subside she then ended the sick call.

Note: This sick call with De Joubert was 13 days after my surgery.

(31) Now on my follow-up with Dr Ashok 7 weeks later (when his order called for 2-3 weeks) at Bob Revere Hospital He told me all my stitches were removed and asked me who did it, he said it was order by him to be the one to take them out, I told him how that I have been made to walk, and Tim Suec that's how my stitches turned out, Dr Ashok then assigned me a walker, and Doctor stated that he did not restore my stitches.

(32) Since I was now assigned a walker and walkers are not allowed in MRI and due to the De Joubert and Dr Espinoza leaving to send me to MRI without my walker I wrote me Jon P. Lamerly about the situation, and I was transferred to W.T.I. with the walker.

(33) Now I'm transferred over w.e. i say "wound" is still open and instead of being housed in the INFIRMARY, I'm moved to Housing Unit (3) is a Medical cell. But was made to walk (2) times a day to get Dressings changed (3) times a day to get pain meds and whenever I had to eat, attend a sick hall etc... I'm being made to do all this while the wound from my surgery continues to bleed, and the bleeding wasn't stop it was a steady flow of blood. None of these Defendants Dr Joubert, nor Dr Espinoza found it necessary to follow Dr Ashok order from Bow Schour which was as follow. keep extremity elevated, no exercising or "strenuous" activity, apply ice to operative site, and use of crutches when standing. I explained to these Defendants and showed them my wound was bleeding. Dr Joubert and Dr Espinoza Both told me it was healing fine. I explained to them i's still bleed cause I think something is wrong from me being made to walk.

34) Now because of this I was writing sick

will after six, day after day and one
again I wrote for Warey to address the
issue of my treatment, inside the letter I
explained everything I explained to these
defendants that my medical orders were not
being followed, my wound was open and bleed-
ing, and the pain associated with the treat-
ment I was receiving.

35) On June 11, 2012, I was called to speak with
the case manager (Sre Bradley) with, the incident
and Sre "Sre" Warey had received my
letter, and wanted him to have the sign
something stating my treatment was being
addressed, and he would be looking into
the medical issues to ensure they will
be addressed, I had being request a wheel
chair, cause "the slightest touch of angle
to the ground was causing pain that felt
worse then being on fire" I wouldnt take
it. That day after the meeting I was
giving a wheel chair, I also explained my
wound from surgery was still bleeding, I
also explained to Sre Bradley that "I had
filed 5 ARP concerning being made to walk

And the pain I was in, And how those JPP were either ignored or dismissed.

36) Mysteriously the next day after this sneezing I was placed in a "isolation well" (note: isolation wells are used to watch suicidal and/or disruptive prisoners my behavior did not display either) when I inquired as to why I was being placed inside the well I was told it was from the security chief Thomas. Because medical said I was playing with my wound, I was housed in this isolation well for 26 days without my property, no pain, and still with a open wound.

37) on the 26 day I was told sign off for paper releasing me from use of walker and I would leave the well and would be sent back to unit 3, to which I refused, I was released from the well and placed back in unit 3 with a wheel chair and walker.

38) finally it was approved or so I was told

For me to return to N.B.H. with the walker this was July 5 2012 I was placed in a medical hall with the walker and put on feed in status basically no movement "etc" now on Sept 20, 2012 my walker was taken from me because N.B.H. medical staff Dr. Otter, PA Mary, Bill Beasley, etc. etc. etc. never wrote the paperwork for me to have it. So now once again I was being forced to walk unassisted. I filed a rep it was dismissed.

39) Now from the last date mentioned above on Jul 1-17-13 I have been subjected to these Defendants not following medical orders stopping pain meds, forcing me to walk injured and treating me as a bother instead of a patient.

40) Now on 1-17-13 I finally had same day surgery to bring down the swelling to my right ankle at Bon Secours because I was walking on it, after surgery I was told the stitches would be removed in (10) days but they were not removed until 2/18/13

"Dr Olney's words to me were I do not know why they are still in I requested to have them removed!" He also stated "I put the order in when I saw you on 1, 23-13.

NOTE: Also because of the stitches being in too long I now have a big bruise or skin discoloration on the outside of my right ankle when saw by Dr Ashok at Bow Sejour HE WAS UPSET ABOUT THIS.

- 41) Now 1-17-13 my Doctors orders for Bow Sejour Hospital at discharge were as follows
- 1) Wound care for incision
 - 2) Dressing change (9) days
 - 3) Apply VTE to operative site (30) days
 - 4) May shower in (2) days
 - 5) Keep extremity elevated (30) days
 - 6) No exercising or strenuous activity for (30) days
 - 7) Remove stitches in (10) days
 - 8) Use of cane at all times for standing.
- The Doctor who "performed my surgery" Deemed that this is what was suppose to be follow after my surgery, no one should change or denied me this order, we even perceived them as unsuitable.

42) 1/22/2013 I Retrieved PAPERWORK for Botto
52 Book, Botto's Tier status, use of cane
only when walking, use of HANDICAP AIR
-ASSIBLE SHOWER, pillow all for (6) months
and work status.

43) now I Requested a medical cell because
I need a cane for standing, and canes
are not allowed in cells in this prison
so I have no stable support when inside
my cell and this issue still exist as
I write this LAW, I HAVE NOT RECEIVED
THE OR AN EXTRA pillow to keep my extra
stility elevated as Directed. now it is
obvious to see a LAYPERSON, so it is defin
itely obvious to these Defendants my
need for a medical HANDICAP cell
BECAUSE those cells providing rails inside
of them to provide support when standing
inside the cell.

44) now not to confuse this Court But i
must go back to a meeting I had on 8/29/
2012 and I explained all my issues to
Bill Beasley who is the Director of Medi

-THAT HE NEVER LOOKED INTO ANY OF MY COMPLAINTS AND WORKED TO ALLOW MY TREATMENT TO BE AS STATED THROUGHOUT THIS CLAIM.

45) EVERYDAY I'VE BEEN REQUESTING FOR MY MEDICAL FILE FROM MS KRISTINA "DOE" (MEDICAL RECORDS TECH.) I'VE FILED COMPLAINTS AND WRITTEN BILL BEATSON AND SPOKE TO MS KRISTINA "DOE" MYSELF ABOUT THE NEED OF MY MEDICAL RECORDS. SHE HAS OBSTINACIOUSLY REFUSED ME ACCESS TO THEM.

NOTE UPON INFORMATION AND BELIEF I AM NOT THE PRISONER WHO EXPERIENCES THIS FROM MS DOE, ITS AS IF SHE INTENTIONAL DENIES REQUESTS FOR RECORDS BECAUSE SHE WANTS TO HINDER OR EVEN BAR PRISONERS FROM FILING CLAIMS, KNOWING A PRISONER'S MEDICAL FILE IS THE MOST DEFINITE PROOF A PRISONER HAS TO SUPPORT HIS CLAIMS WHEN FILING TO THIS COURT, I'VE STILL NOT BEEN GIVEN ACCESS.

46 AT ALL TIMES PERTINENT TO THIS CAUSE.

at that time, the defendants were acting under color of state law.

Failure to provide Adequate Medical Care

50) Each of the Defendants had a duty to provide "Adequate Medical Care" to this plaintiff who suffered and continues to suffer from a serious and obvious medical condition. This plaintiff repeatedly complained to the Defendants about his serious medical need and conditions but Defendants failed and/or refused to summon the appropriate medical care to address his serious and obvious medical condition. When the Defendants were summoned to the plaintiff there was no effort made to appropriately address his conditions or needs. This resulted in a complete failure on the part of the Defendants to provide the plaintiff with adequate medical intervention.

51) Despite the Defendant's refusal and/or

Unconstructive knowledge of the plaintiff's desperate need for medical care and attention, Defendants failed or refused to provide the plaintiff with the adequate medical assistance. To date the plaintiff's medical issues continue to be ignored by the Defendants.

52) As a direct and proximate result of Defendants' actions and/or omissions, the plaintiff suffered and continues to suffer great physical pain, great mental pain, and shock to his nervous system. The plaintiff is entitled to relief as set forth in his Request for Relief.

53) The Defendants, by and through their "actions and/or inactions" are guilty of recklessness, oppression, malice and/or fraud. As a consequence, plaintiff is entitled to punitive damages.

Pray for
Relief.

Wherefore, Plaintiff respectfully prays that this Court enter judgment granting:

- 54) A declaration that the suits and collisions described herein violated Plaintiff's rights under the Constitution and laws of the United States.
- 55) A preliminary and permanent injunction ordering Defendants Kristina "Doc" to provide me with my complete medical file.
- 56) A preliminary and permanent Injunction ordering Defendants, Shear, Beaman, Wilmore, Utley, and Flury to provide me with a medical cell, since use of a cage is restricted inside of cells at D.B. I, or to transfer me to a prison who can handle my many medical requirements.
- 57) A preliminary and permanent injunction ordering these Defendants to start following the outside Doctor's orders of Bob Sallou.
- 58) That the Court will award compensatory

DAMAGES to the amount of 1,000,000 which will fairly and reasonably compensate the Plaintiff for (i) his physical and emotional pain, suffering, emotional distress, hardship shock, suffering, worry, anxiety, sleeplessness, and trauma. (ii) future pain and suffering that he is reasonable certain to experience.

5a) PUNITIVE DAMAGES to the amount of 1,000,000 against the Defendants

6a) PUNITIVE DAMAGES to the amount of 1,000,000 against the Defendants

All Total \$3,000,000

A jury trial on all issues triable by jury

Plaintiff's cost for filing this suit.

Any additional relief this Court deems just proper, and equitable.

Date 3.12.2013

Signature  341331

FILED ENTERED
LODGED RECEIVED

MAR 22 2013

AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND DEPUTY

BY

Del' Carlos Jacobs
14100 Old Millers Hwy

Timberland, Md
21502

Verification

AW-13-879

I HAVE READ THE FOREGOING COMPLAINT AND
HEREBY AS TO MATTERS ALLEGED THEREIN ARE
TRUE, EXCEPT AS TO MATTERS ALLEGED ON INFOR
MATION AND BELIEF AND AS TO THAT, I BELIEVE
THEM TO BE TRUE. I CERTIFY UNDER PENALTY
OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

Executed at Timberland,
Maryland on ^{DATE} 3.12.2013

Sigs. r

